

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

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SHARON DOLEZAL,

Plaintiff,

v.

WALMART, INC.,

Defendant.

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CASE NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Defendant, Wal-Mart Stores, Inc. ("Walmart"), hereby gives notice of the removal of the above-captioned action from the District Court of Douglas County, Nebraska, Case No. 17-10123, to the United States District Court for the District of Nebraska. In support of this notice, Defendant states as follows:

1. Defendant removes this action to Federal Court based upon diversity of citizenship jurisdiction.

2. Plaintiff filed the above-captioned civil action on November 30, 2017, in the District Court of Douglas County, Nebraska, and served Defendant with the Complaint on December 4, 2017. Therefore, Defendant has timely removed this matter. This action is wholly civil in nature. The United States District Court for the District of Nebraska has original jurisdiction under 28 U.S.C. § 1332, and Defendant may remove the action pursuant to 28 U.S.C. § 1441.

3. This Court has diversity of citizenship jurisdiction over this matter because the controversy is between citizens of different states and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff is a citizen of Nebraska, while Walmart is a Delaware corporation with its principal place of business in Bentonville, Arkansas.

4. Specifically, Plaintiff alleges that "Plaintiff is . . . a resident of Omaha, Douglas County, Nebraska. . ." (Exhibit A, Complaint ¶1). Accordingly, Plaintiff is a citizen of Nebraska. Plaintiff also alleges that ". . . defendant's Principal Office is located in Bentonville, Arkansas . . ." (Exhibit A, Complaint ¶2). Defendant is a Delaware corporation with its principal place of business in Bentonville, Arkansas. Therefore, Defendant is a citizen of a state other than Nebraska. (Exhibit C, Declaration of Leigh Campbell Joyce ¶ 2).

5. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff's Complaint alleges that she "has suffered and will continue to suffer permanent physical injuries including, but not limited to pain in her back, neck and both knees which continue to hurt on a daily basis; increasingly severe muscular spasms and a limited range of motion and flexion of her spine; cervical dorsal, thoracic and lumbar subluxations; muscle spasms and pain in her knees, sacroiliac, lumbar, thoracic, and cervical spine and mental pain suffering and anguish secondary to her injuries." (Exhibit A, Complaint ¶6). Plaintiff further alleges that "she now has trouble with stairs and must use a cane and railings to negotiate her way; that exiting and entering her car causes pain and she must park close to buildings in order to minimize walking distance. She must wear neoprene sleeves on her knees when she walks for added support; that in her home she cannot do the housework of vacuuming or cleaning as she did prior to her fall; that she cannot do yard work or gardening, which she thoroughly enjoyed doing prior to this fall; and that intimate interactions with her husband have been curtailed as a result of her injuries." (Complaint ¶7). Plaintiff alleges she "had been I training to become a pharmacy assistant, but now, because of her injuries, she can no longer pursue that occupation; that

the activity would be impossible for her to perform; that her injuries and her decreased functional mobility have negatively impacted her ability to perform her job duties and will have a long term negative economic effect on the remainder of her career." (Complaint ¶8). More specifically, Plaintiff alleges that her "current medical bills total \$30,000.00; that her current miscellaneous expenses total approximately \$3,000.00; that she will incur a likely loss of future income in the amount of at least \$60,000.00. . . ." (Complaint ¶9). Accordingly, the amount in controversy exceeds \$75,000, exclusive of interests and costs. 28 U.S.C. § 1446(c)(2)(A).

6. Defendant files this Notice of Removal pursuant to 28 U.S.C. § 1446 within 30 days of service of the Complaint on or about December 4, 2017.

7. Defendant expressly reserves all defenses to Plaintiff's claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or immunity, any other defense or avoidance, and does not waive any defense by this removal.

8. Attached as Exhibit "A" and incorporated by reference is a true and correct copy of the state court pleadings served upon Defendant and removed by this notice.

9. Attached as Exhibit "B" is a true and correct copy of the Notice of Filing of Notice of Removal which has been served with this document on all parties and will be filed with the District Court of Douglas County, Nebraska.

10. Attached as Exhibit "C" is the Declaration of Leigh Campbell Joyce, with Exhibit 1, the corporation documentation, attached thereto.

11. Attached as Exhibit "D" is a true and correct copy of all filings known to Defendant in the District Court of Douglas County, Nebraska. To Defendant's knowledge, no other pleadings or papers have been filed with such court.

12. Defendant requests trial of this matter in Omaha, Nebraska.

WHEREFORE, Defendant notifies the Court of the removal of this action from the District Court of Douglas County, Nebraska to the United States District Court for the District of Nebraska.

Dated this 3<sup>rd</sup> day of January 2018.

WAL-MART STORES, INC., Defendant,

By: /s/Leigh Campbell Joyce

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ATTORNEYS FOR DEFENDANT

### **CERTIFICATE OF SERVICE**

I hereby certify that on January 3, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. The undersigned further certifies that on this date a true and correct copy of the above and foregoing was served via regular U.S. mail on the following:

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/s/Leigh Campbell Joyce